

Appellant, a 44-year-old transportation security screener, injured his left upper extremity in the performance of duty on December 29, 2006. The Office accepted the claim for left shoulder sprain and joint pain. On February 7, 2007 appellant underwent a left shoulder

arthroscopy to repair a torn rotator cuff.<sup>1</sup> In October 2007, he was released to return to work without restrictions. As a result of favoring his previously injured left shoulder, appellant developed problems with his right shoulder. The Office subsequently accepted right rotator cuff tear and right shoulder tendinitis as consequential injuries. It also authorized a right shoulder arthroscopy, which was performed on February 11, 2009.

Appellant filed a claim for a schedule award (Form CA-7) with respect to his left shoulder injury. In a decision dated March 2, 2009, the Office granted an award for six percent impairment of the left upper extremity. The award covered a period of 18.72 weeks. The Office based its decision on the January 19, 2009 report of Dr. David H. Garelick, a Board-certified orthopedic surgeon, and district medical adviser (DMA). Appellant's orthopedic surgeon, Dr. Sullivan, provided a July 11, 2008 impairment rating of 10 percent for the left upper extremity. While he included left shoulder range of motion measurements, it was not entirely clear how he arrived at his 10 percent rating. The DMA, and Dr. Garelick, based appellant's six percent impairment rating on the same range of motion measurements provided by Dr. Sullivan.

### **LEGAL PRECEDENT**

Section 8107 of the Federal Employees' Compensation Act set forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.<sup>2</sup> The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) as the appropriate standard for evaluating schedule losses.<sup>3</sup> Effective February 1, 2001, schedule awards are determined in accordance with the A.M.A., *Guides* (5<sup>th</sup> ed. 2001).<sup>4</sup>

### **ANALYSIS**

In challenging the Office's March 2, 2009 schedule award, appellant noted that his orthopedic surgeon, Dr. Sullivan, concluded that he had 10 percent impairment of the left upper extremity. In his July 11, 2008 rating report, Dr. Sullivan noted 70 degrees of retained internal and external rotation. The DMA correctly found that 70 degrees of external rotation represented 0 percent impairment and 70 degrees of internal rotation represented one percent impairment under the A.M.A., *Guides* (5<sup>th</sup> ed. 2001).<sup>5</sup> Dr. Sullivan also reported 150 degrees of forward

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<sup>1</sup> The Office authorized the February 7, 2007 surgical procedure, which was performed by Dr. Thomas A. Sullivan, a Board-certified orthopedic surgeon.

<sup>2</sup> For a total loss of use of an arm, an employee shall receive 312 weeks' compensation. 5 U.S.C. § 8107(c)(1) (2006).

<sup>3</sup> 20 C.F.R. § 10.404 (2009).

<sup>4</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 (June 2003).

<sup>5</sup> See A.M.A., *Guides* 479, Figure 16-46.

elevation (flexion) and 30 degrees backward elevation (extension). Once again, relying on his measurements, the DMA properly found that the loss of flexion represented two percent impairment and the loss of extension represented one percent impairment.<sup>6</sup> Appellant's orthopedic surgeon also reported 130 degrees of left shoulder abduction and 60 degrees of adduction. Applying these measurements to the applicable section of the A.M.A., *Guides*, Dr. Garelick correctly found that appellant had two percent impairment for loss of abduction and zero percent impairment with respect to shoulder adduction.<sup>7</sup> The individual impairments for loss of flexion (two percent), extension (one percent), abduction (two percent) and internal rotation (one percent) were then properly added together to determine the overall impairment of the left upper extremity due to abnormal shoulder motion, which was six percent.

As the DMA's January 19, 2009 impairment rating is consistent with the A.M.A., *Guides* (5<sup>th</sup> ed. 2001), Dr. Garelick's findings represent the weight of the medical evidence regarding the extent of appellant's left upper extremity impairment attributable to his December 29, 2006 employment injury. Whereas Dr. Garelick provided specific references to the A.M.A., *Guides* when calculating appellant's 6 percent impairment rating, Dr. Sullivan did not explain how he reached his 10 percent impairment rating under the A.M.A., *Guides*. Appellant has not presented any credible medical evidence demonstrating a permanent impairment in excess of the six percent left upper extremity award he has already received.

### **CONCLUSION**

Appellant has not established that he has greater than six percent impairment of the left upper extremity.

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<sup>6</sup> See *id.* at 476, Figure 16-40.

<sup>7</sup> See *id.* at 477, Figure 16-43.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 2, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 30, 2009  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board